

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Figueroa Analyst: Marion Mann DeJong Bill Number: SB 1761
Related Bills: See Legislative History Telephone: 845-6979 Introduced Date: 02/23/2000
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Automatic External Defibrillator Credit

SUMMARY

This bill would allow a credit equal to the amount paid or incurred for the purchase of an automatic external defibrillator (AED). The credit could not exceed \$500 per taxable or income year.

This bill also would require the Department of General Services to determine the feasibility of purchasing and installing AEDs in state buildings. This provision is not discussed in this analysis as it does not impact the programs administered by this department.

EFFECTIVE DATE

The bill would become effective January 1, 2001. However, the bill specifies that it would apply to taxable or income years beginning on or after January 1, 2000.

LEGISLATIVE HISTORY

SB 911 (Stats. 1999, Ch. 163) provided qualified immunity from civil liability for trained persons who use in good faith and without compensation an AED in rendering emergency care or treatment at the scene of an emergency. The qualified immunity also extends to those businesses that purchased the device, the physician who prescribed the device, and the agency that trained the person in the use of the AED. The immunity does not apply in cases of personal injury or wrongful death resulting from gross negligence of willful or wanton misconduct.

BACKGROUND

An AED is a medical device that is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. An AED costs about \$3,000.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Alan Hunter for GHG

3/22/00

SPECIFIC FINDINGS

Existing state and federal laws allow a taxpayer to deduct expenses paid or incurred in the ordinary course of a taxpayer's business. Generally personal expenses are not deductible. However, certain personal expenses are deductible, such as charitable contributions, medical expenses, home mortgage and certain student loan interest, and taxes. In the case of personal income taxpayers, medical expenses paid during the taxable year for medical care of the taxpayer, his spouse, or a dependent (including amounts paid to acquire medically necessary equipment) are deductible as an itemized deduction to the extent these expenses exceed 7.5% of adjusted gross income.

Existing state and federal laws provide various tax credits that are designed to provide tax relief for taxpayers who must incur certain expenses (e.g., child care credit) or to influence behavior, including business practices and decisions (e.g., research credits).

This bill would allow a credit equal to the amount paid or incurred for the purchase of an AED. The credit could not exceed \$500 for the purchase of an AED during the taxable or income year. Any credit in excess of tax could be carried forward indefinitely.

Policy Considerations

This bill would raise the following policy considerations.

- Conflicting tax policies come into play whenever a credit is provided for an expense item for which preferential treatment is already allowed in the form of an expense deduction. Since the purchase of an AED is deductible as a medical expense under existing law, this new credit would have the effect of providing a double benefit for that expense item. On the other hand, making an adjustment to deductions in order to eliminate the double benefit creates a state and federal difference, which is contrary to the state's general conformity policy. In the case of a one-time expense deduction, the reduction of that expense would not create an ongoing difference.
- The credit would be allowed regardless of whether the AED was used inside or outside California.
- This bill does not specify a repeal date or limit the number of years for the carryover. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. However, if an unlimited credit carryover is allowed, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover limit since experience shows credits are typically used within eight years of being earned.

Implementation Considerations

The bill specifies that it would apply to taxable or income years beginning on or after January 1, 2000. However, SB 1761 is neither a tax levy nor an urgency bill, thus making its effective date January 1, 2001. Accordingly, the bill would be retroactive as it allows a credit for purchases made before the effective date of the bill.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

Based on the data and assumptions below, revenue losses are estimated as follows:

Estimated Revenue Impact		
Taxable/Income Years Beginning After December 31, 1999		
Enactment Assumed After June 30, 2000		
Fiscal Years		
(In Millions)		
2000-01	2001-02	2002-03
-\$2	-\$3	-\$4

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure. Also, this analysis only reflects expenditures for AEDs used within California.

Tax Revenue Discussion

The revenue impact of this proposal depends on the number of taxpayers purchasing AEDs in any given year, qualifying costs, and the tax liability levels of claimants. Recent advances in technology have given rise to a new generation of defibrillator that is smaller, lighter, more affordable and easier to use. The average cost of these AEDs is \$3,500.

Estimates were developed with information from the leading AED vendors, namely Agilent Technologies, Laerdal Medical Corporation, and SurVivaLink. The number of new automatic external defibrillators placed in service in California during 2000 is projected to be 7,500. Due to the 1999 passage of SB 911 that provides immunity from civil liability to any persons using AEDs or entities providing AEDs, subject to specific criteria, and the success of recent lawsuits against theme parks and airlines not supplying AEDs to customers who died as a result, sales of AEDs are expected to expand significantly. Nationwide sales of AEDs from 1996 to 1999 show a large increase in the number of AEDs sold nationwide. As a result, an AED growth factor of 25% was applied for each year included in this revenue analysis.

The impact for the 2000 tax year would be on the order of \$2 million and was computed using a total of 4,500 new AEDs. The total AED number does not include the large percent of new AEDs that will be used by government entities such as police, and therefore not eligible for the tax credit. The allowable total AEDs were then multiplied by the credit limitation of \$500, a modest incentive effect due to the credit, and an assumed average credit usage rate of 80% for the first year with the remaining credit carried forward.

BOARD POSITION

Pending.